

APPEAL NO. 041048
FILED JUNE 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 7, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury in the form of left carpal tunnel syndrome (CTS), with a date of injury of _____; that the claimant has not had disability because she did not sustain a compensable injury; and that the election of remedies doctrine is not a bar to the claimant's claim. The claimant appeals the hearing officer's determinations on the issues of repetitive trauma injury and disability. The respondent (carrier) asserts that sufficient evidence supports the hearing officer's decision on the appealed issues. There is no appeal of the hearing officer's determination on the issue of election of remedies.

DECISION

Affirmed.

The claimant claimed that she sustained a repetitive trauma injury to her left hand in the form of left CTS from performing her work activities for the employer and that she had disability as a result of that injury. The claimant had the burden to prove that she sustained a repetitive trauma injury as defined by Section 401.011(36) and that she had disability as defined by Section 401.011(16). The claimant asserted that her job duties caused an aggravation of her preexisting left CTS. The hearing officer found that the claimant failed to establish by a preponderance of the credible evidence that she sustained a compensable repetitive trauma injury to her left upper extremity and that she failed to establish by a preponderance of the credible evidence that she aggravated a preexisting condition of left CTS while in the performance of her work duties. Conflicting evidence was presented on the disputed issue of repetitive trauma injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's determination that the claimant did not sustain a compensable repetitive trauma injury in the form of left CTS, with a date of injury of _____, is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 175 (Tex. 1986). The hearing officer did not err in determining that the claimant has not had disability because without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Margaret L. Turner
Appeals Judge